



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

JAMES P. BROOKS
ACTING COMMISSIONER

To: Board of Environmental Protection

From: Andrew Slusarski, Michael Hudson, Hazardous Waste Enforcement Unit, Bureau of Remediation and Waste Management (BRWM)

Date: February 3, 2011

RE: Administrative Consent Agreement -
Northeast Coating Technologies, Inc., Kennebunk, Maine

Statutory and Regulatory Reference: The Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq., specifies certain requirements for the management, storage, treatment and disposal of hazardous waste.

Location: Northeast Coating Technologies, Inc., Kennebunk, Maine

Description: Northeast Coating Technologies, Inc. has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The hazardous waste violations were identified during an inspection conducted at Northeast Coating Technologies, Inc. on March 4, 2010. The violations identified include the following: 1) failure to determine if wastes generated are hazardous, 2) failure to mark containers with the words "hazardous waste" and the accumulation start date, 3) storage of hazardous waste greater than 90 days without a license, 4) treatment or disposal of hazardous waste on site without a license, 5) offering hazardous waste to a transporter or waste facility not authorized or licensed, 6) discharge of hazardous matter and hazardous waste without a license, 7) failure to keep containers of hazardous waste closed, 8) failure to post signs at each entrance to the hazardous waste storage area, 9) failure to conduct daily inspections of hazardous wastes, 10) failure to post a sign to designate the universal hazardous waste storage area, 11) failure to store universal waste in containers that are closed and structurally sound, 12) failure to mark containers of universal waste lamps with the words "Waste Lamps," 13) failure to mark containers of universal waste lamps with the accumulation start date, 14) failure to retain Universal Waste Certificates of Recycling, 15) failure to train all employees who handle or manage universal wastes, 16) failure to train all employees who handle or manage hazardous wastes, 17) failure to develop and maintain a hazardous waste contingency plan, and 18) failure to execute annual aid agreements in writing with local emergency agencies.

To resolve these violations, Northeast Coating Technologies, Inc. has a) submitted a written response to the Department indicating corrective actions undertaken, or planned to address the

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violations, b) agreed to pay to the Maine Hazardous Waste Fund a penalty of Seventeen Thousand Seven Hundred Dollars (\$17,700.00) as specified in the Agreement.

The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste and to provide for the inspection or supervision of hazardous waste handlers and related hazardous waste activities. Pursuant to statute, all fees, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

Northeast Coating Technologies, Inc. has agreed to pay the above penalty which was based upon the type of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and any economic benefit realized. In this specific case it was the company's second hazardous waste inspection and involved repeat violations. A mitigating factor considered in the penalty included Northeast Coating Technologies, Inc.'s taking actions to achieve compliance as described in written responses to Department staff. The number of violations warranted a monetary penalty due to the failure of the company to manage and document hazardous waste and universal hazardous wastes appropriately, in accordance with Maine's Hazardous Waste Management Rules.

Department Recommendation:

The Department recommends that the Board accept the Consent Agreement as part of its Consent Agenda to resolve the issues addressed.

Staff Contact persons:

Andrew Slusarski, Michael Hudson, Hazardous Waste Enforcement Unit, BRWM

Estimated time of presentation: No presentation; Consent agenda item



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

IN THE MATTER OF:

NORTHEAST COATING TECHNOLOGIES, INC.)	ADMINISTRATIVE CONSENT
105 YORK STREET, KENNEBUNK)	AGREEMENT
YORK COUNTY, MAINE)	(38 M.R.S.A. § 347-A)
HAZARDOUS WASTE ACTIVITIES)	

This Agreement, by and among Northeast Coating Technologies, Inc., the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

1. Northeast Coating Technologies, Inc. is a Maine corporation that operates a metal parts coating business with its principal location at 105 York Street, Kennebunk, Maine. Shawn P. Spencer is the President of Northeast Coating Technologies, Inc.
2. The violations described herein occurred at 105 York Street in Kennebunk, Maine.
3. Northeast Coating Technologies, Inc. is a generator of hazardous waste including, but not limited to, corrosive, ignitable and "f-listed" wastes generated in metal coating processes. As a result, Northeast Coating Technologies, Inc. is subject to Maine's *Hazardous Waste, Septage and Solid Waste Management Act* ("Act"), 38 M.R.S.A. §§ 1301 through 1319-Y and the Department's *Hazardous Waste Management Rules* 06-096 CMR ("Rules"), 06-096 CMR 850-857. In addition, on September 1, 2004, Northeast Coating Technologies, Inc. filed a Subsequent Notification to the Department and U.S. Environmental Protection Agency ("US EPA") of its regulated waste activity and the US EPA hazardous waste generator identification number MED083188854 for the location specified in Paragraph 1 above, formerly occupied by I H T/ Tigold Division, was transferred to Northeast Coating Technologies, Inc.
4. On March 21, 2001, Northeast Coating Technologies, Inc. was inspected for compliance with Maine's Rules at the company's former location, 41 Water Street, Kennebunk, Maine. As a result of that inspection the Department issued a Notice of Violation dated November 27, 2001 for hazardous waste violations documented during the March 21, 2001 inspection.
5. On March 4, 2010, Department staff conducted an inspection of Northeast Coating Technologies, Inc. at the location described in Paragraph 1 of this Agreement to assess

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compliance with the hazardous waste management standards of the Act and Rules. The inspection revealed the following violations:

- A. Northeast Coating Technologies, Inc. failed to determine if wastes generated are hazardous, in violation of the Rules, 06-096 CMR 851(5).

Specifically, the following wastes generated by Northeast Coating Technologies, Inc. were not determined by Northeast Coating Technologies, Inc. to be hazardous waste:

- 1) One (1), full fifty-five gallon drum of waste isopropyl alcohol in the concrete chemical storage building which was stated to be "returned to the vendor" when waste. Waste isopropyl alcohol is an ignitable hazardous waste and has the EPA hazardous waste number of D001.
- 2) Acetone-contaminated wipers consisting of gloves and cotton swabs. The acetone-contaminated cloth glove wipers were laundered on-site. The cotton swab wipers were discarded in regular trash. Waste acetone is a listed hazardous waste and has the EPA hazardous waste number of F003..

This is a repeat citation of similar violations documented in a Notice of Violation issued to Northeast Coating Technologies, Inc. dated November 27, 2001.

- B. Northeast Coating Technologies, Inc. failed to mark each container of hazardous waste with the words "hazardous waste" and mark the accumulation start date on each container of hazardous waste, in violation of the Rules, 06-096 CMR 851(8)(B)(3).

Specifically, the hazardous wastes specified in paragraph 5(A)(2) above were not marked appropriately.

This is a repeat citation of similar violations documented in a Notice of Violation issued to Northeast Coating Technologies, Inc. dated November 27, 2001.

- C. Northeast Coating Technologies, Inc. stored hazardous waste greater than 90 days without a license to do so, in violation of the Rules, 06-096 CMR 851(8)(C).

At the time of the inspection, the drum specified in paragraph 5(A)(1) above was observed with an accumulation start date of June 30, 2009, indicating the drum had been stored more than 5 months longer than allowable.

- D. Northeast Coating Technologies, Inc. treated or disposed of hazardous waste on-site without a license to do so, in violation of the Rules, 06-096 CMR 851(12)(A).

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HAZARDOUS WASTE ACTIVITY)	

Specifically, hazardous waste acetone-contaminated wipers (i.e. cloth gloves) were laundered on-site and the wastewater discharged to the on-site septic system.

- E. Northeast Coating Technologies, Inc. offered hazardous waste to a transporter or a waste facility not authorized or licensed to accept or handle hazardous waste, in violation of the Rules, 06-096 CMR 851(7).

Hazardous waste isopropyl alcohol was offered to Carter Chemicals & Service, Westbrook, Maine. Carter Chemicals & Service is not a licensed hazardous waste transporter or a licensed hazardous waste disposal facility. Waste acetone-contaminated cotton swab wipers which were discarded in the regular trash were offered to a solid waste transporter not licensed to handle hazardous waste.

- F. Northeast Coating Technologies, Inc. discharged hazardous matter and hazardous waste upon the land without a license to do so, in violation of 38 M.R.S.A. § 1317-A and 38 M.R.S.A. § 1306(3), respectively.

Specifically, hazardous waste isopropyl alcohol, which is also a hazardous matter, was stored in the outdoor chemical storage building described in Paragraph 5(A)(1) above and was observed overflowing onto the concrete floor of the containment structure at the time of the inspection. The Department required the pumping of the storage building's concrete secondary containment and analysis of the recovered liquids. Laboratory analysis provided to the Department by Northeast Coating Technologies, Inc. on May 14, 2010 indicates isopropyl alcohol in a concentration of 160 mg/l confirming a release into the secondary containment area. A discharge to a secondary containment area constitutes a discharge to "land" within the meaning of the discharge prohibitions for hazardous waste and hazardous matter.

- G. Northeast Coating Technologies, Inc. failed to keep containers of hazardous waste closed, except when wastes are being added or removed, in violation of the Rules, 06-096 CMR 851(8)(B)(2), which incorporates by reference 40 CFR 265.173 [1988].

Specifically, one (1) fifty-five gallon drum of hazardous waste alcohol described in paragraph 5(A)(1) was observed open with a funnel in the bung and one (1) fifty-five gallon drum of corrosive hazardous waste sodium hydroxide inside the facility had the bung removed and no wastes were being added or removed.

This is a repeat citation of similar violations documented in a Notice of Violation issued to Northeast Coating Technologies, Inc. dated November 27, 2001.

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HAZARDOUS WASTE ACTIVITY)	

- H. Northeast Coating Technologies, Inc. failed to post signage stating "Danger-Unauthorized Personnel Keep Out" at each entrance to a hazardous waste storage area, in violation of the Rules, 06-096 CMR 851(13)(C)(7)(c)(i) which incorporates by reference 40 CFR 264.14 [1988].

Specifically, each entrance to the designated drum storage area inside the facility near the Cleaning Room was missing the appropriate signage.

- I. Northeast Coating Technologies, Inc. failed to conduct daily inspections of hazardous waste containers and record findings in an inspection log, in violation of the Rules, 06-096 CMR 851(13)(D).

Specifically, no inspection logs were available for any of the areas in which hazardous wastes were generated or stored, including the drum storage area near the Cleaning Room, the outdoor storage building or the inside satellite accumulation areas for silver nitrate waste (lab) and acetone-contaminated rag collection boxes (TSD Room, Shipping/ Receiving, Ion Nitriding, Medtronic Cell and HCD area).

This is a repeat citation of similar violations documented in a Notice of Violation issued to Northeast Coating Technologies, Inc. dated November 27, 2001.

- J. Northeast Coating Technologies, Inc. failed to designate waste lamp storage areas by a clearly marked sign which states "Waste Lamp Storage" or "Universal Hazardous Waste Storage," in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xxiii)(f).

Specifically, no signs were observed in the corner of the Cleaning Room where universal waste lamps were located.

- K. Northeast Coating Technologies, Inc. failed to store all universal wastes in containers that are closed, sealed and structurally sound, in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(vi).

Specifically, the approximately fifty to sixty (50-60) waste lamps observed in the Cleaning Room were stored loose or in open cardboard boxes.

- L. Northeast Coating Technologies, Inc. failed to mark containers of universal waste lamps with the words "Waste Lamps," in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xxiii)(e).

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Specifically, the containers of waste lamps referenced in Paragraph 5(M) above were not marked appropriately.

- M. Northeast Coating Technologies, Inc. failed to mark containers of universal waste with the accumulation start date, in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xii).

Specifically, the containers of waste lamps referenced in Paragraph 5(M) above were not marked with an accumulation start date.

- N. Northeast Coating Technologies, Inc. failed to retain Universal Waste Certificates of Recycling from a central accumulation facility (i.e. town transfer facility) or consolidation facility to document proper recycling of universal waste lamps, in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xix)(d).

Specifically, records documenting proper recycling of universal waste lamps were not available at the time of the inspection. One (1) Certificate of Recycling for a lamp shipment shipped to Veolia Environmental Services on September 29, 2008 and received at the recycling facility on October 3, 2008 was obtained from the Massachusetts recycling facility after the inspection and forwarded to the Department.

- O. Northeast Coating Technologies, Inc. failed to train all employees who handle or have responsibility for managing universal wastes on proper handling and emergency procedures, in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(ix).

Specifically, no universal waste training had been conducted for Northeast Coating Technologies, Inc. employees who handle and/or manage universal wastes.

- P. Northeast Coating Technologies, Inc. failed to develop, conduct or document hazardous waste personnel training for those employees who handle or manage hazardous waste, in violation of the Rules, 06-096 CMR 851(8)(B)(5) which incorporates by reference 40 CFR 264.16 [1988].

Specifically, except for one maintenance person, Northeast Coating Technologies, Inc. did not provide training and did not have records to demonstrate that facility personnel had been trained to perform their duties in a manner that ensures the facility's compliance with the hazardous waste management requirements.

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This is a repeat citation of similar violations documented in a Notice of Violation issued to Northeast Coating Technologies, Inc. dated November 27, 2001.

- Q. Northeast Coating Technologies, Inc. failed to develop and maintain a hazardous waste contingency plan, in violation of the Rules, 06-096 CMR 851(8)(B)(5) which incorporates by reference the requirements of 40 CFR 264 Subpart D (264.51 to 264.56) [1988].

Specifically, no hazardous waste contingency plan was available for the 105 York Street, Kennebunk location. Although Toxics Use Reduction and Pollution Prevention documents had been prepared, these documents did not have the necessary components required for a hazardous waste contingency plan.

This is a repeat citation of similar violations documented in a Notice of Violation issued to Northeast Coating Technologies, Inc. dated November 27, 2001.

- R. Northeast Coating Technologies, Inc. failed to execute annual aid agreements in writing with local police, fire, hospital and emergency response teams, in violation of the Rules, 06-096 CMR 851(13)(C)(7)(c)(ii) which incorporates by reference 40 CFR 264.37 [1988].

Specifically, records to indicate that annual aid agreements had been secured or that attempts had been made to secure annual aid agreements with local hospital, police, fire departments or emergency response teams were not available.

This is a repeat citation of similar violations documented in a Notice of Violation issued to Northeast Coating Technologies, Inc. dated November 27, 2001.

6. On May 20, 2010, the Department issued a Notice of Violation ("NOV") to Northeast Coating Technologies, Inc. for the activities described in Paragraph 5 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). In the NOV, the Department requested that Northeast Coating Technologies, Inc. perform corrective actions and respond to the Department in writing within thirty (30) days describing the corrective actions undertaken to address each of the violations cited. Specific corrective actions requested by the Department include, but are not limited to, cease evaporation of all hazardous wastes, make hazardous waste determinations and document disposal at a licensed facility, submit a hazardous waste contingency plan, submit documentation of hazardous waste personnel training, submit documentation of floor drain sealing, sample the on-site septic system for laboratory analysis, submit documentation that the outdoor chemical storage building has been retrofitted to ensure building will not be subject to rain

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infiltration and that the floor is impervious, submit documentation that spent blast media is being managed as "special waste" and provide a written response within forty five days of receipt.

7. On July 1, 2010, Northeast Coating Technologies, Inc. submitted to the Department a preliminary written response to the NOV, indicating the corrective actions undertaken or planned to address the violations. The corrective actions included, but are not limited to, the following: a written statement that floor drains listed as "active" in an October 2008 Ransom Environmental Report were hydro tested and determined to be sealed; a written statement that modifications have been made to the outdoor Hazardous Waste Storage building to prevent rainwater infiltration, and the floor inspected and found to be impervious; a receipt for hazardous waste training for the Facility Manager; a draft hazardous waste contingency plan; and sample results of the liquid effluent from the facility. The effluent sample results indicate the presence of low levels of the "f-listed" hazardous waste constituent acetone and the hazardous matter constituents toluene and phenol. On August 5, 2010, Northeast Coating Technologies, Inc. submitted to the Department a formal response letter to the NOV, indicating additional corrective actions undertaken or planned to address the violations.
8. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
9. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
10. To resolve the violations referenced in Paragraph 5 of this Agreement, Northeast Coating Technologies, Inc. agrees to:
 - A. Henceforth, no longer store hazardous waste for longer than ninety (90) days without a license to do so, pursuant to the Rules, 06-096 CMR 851(8)(C);
 - B. Henceforth, no longer treat, evaporate, dispose or launder hazardous waste, including laundering acetone-contaminated cloth wipers, on site without a license to do so, pursuant to the Rules, 06-096 CMR 851(12)(A);
 - C. Henceforth, no longer offer hazardous waste, including hazardous waste isopropyl alcohol and waste acetone-contaminated wipers to a transporter not authorized to handle or transport hazardous waste, pursuant to the Rules, 06-096 CMR 851(7);
 - D. Henceforth, no longer discharge hazardous matter or hazardous waste upon the land without a license to do so, pursuant to 38 M.R.S.A. § 1317-A and 38 M.R.S.A. § 1306(3), respectively;

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- E. Within thirty (30) days of Northeast Coating Technologies, Inc.'s signature of this Agreement, submit to the Department a copy of its personnel training records that demonstrate that employees have been trained to perform their duties in a manner that will maintain the facility's compliance with the hazardous waste and universal waste management requirements, and that employees have been trained in the implementation of the facility's hazardous waste contingency plan;
- F. Pay to the *Treasurer, State of Maine, c/o Hazardous Waste Fund*, a civil monetary penalty of Seventeen Thousand Seven Hundred Fifty dollars (\$17,700.00) in six (6) payments. The first payment shall be in the amount of Two Thousand Nine Hundred Fifty dollars (\$2,950.00) and is due upon Northeast Coating Technologies, Inc.'s signature of this Agreement. Five (5) additional payments shall be in the amount of Two Thousand Nine Hundred Fifty dollars (\$2,950.00) and shall be due on or before the first day of each month for five (5) consecutive months from February 1, 2011 through June 1, 2011. In the event of any default in the above payment schedule, including failure to make payment within seven (7) days of the due date, a late fee of one hundred dollars (\$100) per week calculated from the due date of the missed payment shall be added to the balance due and shall accrue weekly until any missed payment(s) and late fee(s) are paid in full. In addition, if any payment is more than seven (7) days late, the full outstanding balance of the unpaid penalty is immediately due and payable upon demand by the Department.
11. The Department and Office of the Attorney General grant a release of their causes of action against Northeast Coating Technologies, Inc. for the specific violations listed in Paragraph 5 of this Agreement on the express condition that all actions listed in Paragraph 10 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement. This Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions if the Department determines that such action is necessary to protect public health, safety, or the environment. This limited release shall not become effective until all requirements of this Agreement are satisfied.
12. Non-compliance with this Agreement voids the release set forth in Paragraph 11 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
13. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.

IN THE MATTER OF:

NORTHEAST COATING TECHNOLOGIES, INC.
105 YORK STREET, KENNEBUNK
YORK COUNTY, MAINE
HAZARDOUS WASTE ACTIVITY

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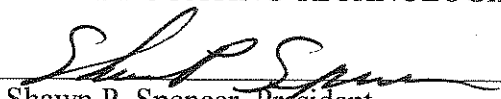
ADMINISTRATIVE CONSENT
AGREEMENT
(38 M.R.S.A. § 347-A)

14. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of nine (9) pages:

NORTHEAST COATING TECHNOLOGIES, INC.

BY:


Shawn P. Spencer, President

DATE:

12/15/10

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY:

Susan M. Lessard, Chair

DATE:

MAINE OFFICE OF THE ATTORNEY GENERAL

BY:

Peter LaFond, Assistant Attorney General

DATE: